



INTERact

Sharing Expertise

INTERACT POINT VIENNA

**First Level Control in Territorial Cooperation programmes
and IPA CBC under shared management**

FLC tasks and responsibilities

1-2 July 2009 | Bucharest





Structure for this session

- Who is a First Level Controller?
- Tasks of FLC
- Environment of FLC



Other controls/ audits

- MS
- Cofin. institutions
- EC audit services
- ECA
- OLAF

Different types of control

**SECOND LEVEL
CONTROL**

CERTIFYING AUTHORITY

MANAGING AUTHORITY / JTS

**FIRST LEVEL CONTROL
(admin + on-the-spot)**

INTERNAL CONTROL of the PARTNER



- Controllers task is to **detect and correct errors** and to **prevent** the declaration of incorrect expenditure
- Controllers should provide **assurance to programmes** that there are no errors in the expenditure declared
- And **assurance to partners** that no errors will be found in their expenditure at a later stage
- Controllers are the only people in the programme carrying out this essential task
- In large part the future of the programmes will be decided by the effectiveness of the controllers



Our own definition for this event:

- Checks of project expenditure and activities to **complement monitoring** of the MA/JTS.
- Checks are usually made **PRIOR to the reimbursement** of costs and are thus aiming at the prevention of errors.
- FLC is primarily but not exclusively **the work of controllers**



First level control criticisms

- Not thorough enough - too many errors getting through
- Not wide enough - some issues not checked
- Not documented enough - auditors and programme authorities only see a short declaration
- Not good enough - too many projects have to repay funds because problems have not been detected
- Acceptable error rate after first level control is 2%
- European Court of Auditors estimates 11% error rate after second level control



First level control criticisms

Problems with eligibility 2000-2006

- **Complicated or unclear eligibility criteria** or complex legal requirements have a considerable impact on the legality and regularity of underlying transactions (ECA report).
- Some MS provided **very little information** on their additional eligibility requirements
- Extensive confusion at the project level about what is and is not allowed. **Very difficult to get reliable confirmation.**
- ECA recommends to **simplifies regulations and rules!**



Understanding the tasks of FLC:

Things to be checked and timing



Rules and Guidelines

- Community rules: General Regulation, Fund Regulations, Implementing Regulation
- Regularity - State Aid, public procurement, Community policies, publicity requirements
- *The EU COM guidance document on management verifications*
- National laws and national rules
- Programme documents - negotiated and agreed with the European Commission
- Public finance accounting principles



Verification of soundness of expenditure in the sense of the Regulations (community, national, programme-specific)

- Principles of **sound financial management** (EU- general budget)
- Expenditure is **real** (has actually been incurred)
- **Products and services have been delivered** in accordance with the approval decision
- **Application for reimbursement by the partner is correct**
- Operations complies with **national and community rules**
- **Avoids double financing**
- Expenditure is **eligible** and was incurred **within the eligibility period**
- **The public contribution has been paid** to the partner (where applicable)



Verification of soundness of expenditure in the sense of the Regulations (community, national, programme-specific)

- Compliance with **State Aid** rules
- Compliance with **Public Procurement** rules
- Compliance with **information and publicity** requirements
- **Sustainable development**
- **Equality between men and women and non-discrimination**



When in doubt - Essential eligibility questions

- Is the cost claimed real?
- Is there evidence it has been paid out?
- Is the price reasonable?
- Does it add value to the project?



Common problems spotted during FLC

- Project includes costs for services contracted before the start of the programme period or eligibility date
- Project partners' budgets are exceeded
- Budget lines are exceeded
- Costs are reported under wrong budget lines
- Costs do not correspond to the activity report
- Changes in the partnership
- Wrong exchange rate used
 - Lack of adequate evidence for costs
 - VAT
 - Calculation of overheads not transparent
 - Wrong calculation of staff cost



Common problems spotted during FLC

- Failure to comply with procurement rules
- Failure to comply with publicity rules
- Same cost included twice
- No evidence/control for co-financing part of budget
- Expenditure reported for organisations not in the partnership
- Especially at project end, unused funds are used on new equipment unrelated to the project
- Project includes costs for non-agreed / non-relevant activities
- Projects include costs that have not yet been paid
- Projects include non-approved travel outside the area



FLC in practice

- Check lists are used to make sure everything is covered
- But: no exhaustive list of eligible or ineligible expenditure (ever)
- Eligibility can often only be assessed case-by-case depending on the project objectives, financial plan and approved application
- Projects involve partners from various MS with different rules, languages, practices and understanding of eligibility
- Other countries, programmes and funds (for example ESF) have different rules which may cause confusion



- Many FL controllers check 100% of the items of expenditure. Though desirable this may not always be feasible.
- FLC usually certifies 100% correctness of expenditure but does NOT certify that 100% of the items of expenditure were checked.
- Especially for on-the-spot checks, a sampling method and risk factors must be used (e.g. value of items, type of partner, past experience).
- Any risk-based sampling method must be well reasoned and documented



- FLC takes place every time project makes a payment claim
- FLC takes place at the partner level
- Expenditure which has not been certified by FLC cannot be included in programme payment claim to EC



Documentation through:

- Check lists, memos, control reports, marks on controlled documents, etc.
- Copies of controlled documents
- Copies of ineligible invoices etc

Goal:

- Transparency and plausibility of conclusions and follow up of findings



Timing of FLC work

Some aspects need to be tackled early to avoid serious problems later:

- Check the **set-up of partner accounting and payment systems**
- Check that **staff hours** are being properly recorded
- Check that a correct calculation method is in place for **overhead costs**
- Check that beneficiaries are aware of the applicable rules (especially **publicity and procurement**)
- Check that an adequate **audit trail** is being maintained



Understanding the environment of FLC:

**Interfaces of FLC with projects, other
programme bodies and Member States**



- **Must allow auditing authorities to:**
 - Trace all declared expenditure to original invoices (or documents of equivalent probative value)
 - Verify the transfer of funds to final beneficiaries
- **The most common problem detected in Commission audits**
- **Failure to understand this has led to recoveries of up to 85% of programme budgets**
- Accounting evidence should include: Staff; Overheads; External experts; Travel and accommodation; Meetings and events; Publicity; Investments
- Clear description of the accounting evidence at each level, and communicate this to everyone involved, including project partners



European Commission specifically highlights to central role of FLC in assuring:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations
- Prevention and detection of fraud



Lead Partner Principle

Lead Partners have a role in control:

- To ensure that satisfactory **certified statements of expenditure** have been received from each partner and certification has been carried out by the designated body
- To ensure that ‘the expenditure presented by the beneficiaries participating in the operation has been incurred for the purpose of implementing the operation and corresponds to the activities agreed between those beneficiaries...’
- In some programmes Lead Partner controllers will be expected to play a role in this by providing a consolidated project claim
- But often Lead Partner control is no different to checking other beneficiaries



Lead Partner Principle and FLC

- Control is carried out at partner level (including Lead Partner) by the controllers designated in each partner's country
- All beneficiaries are responsible (and liable) for their own expenditure
- Lead Partner's controller does not generally control the expenditure of beneficiaries in other countries - Because this did not work very well in the past
- This basic system is sound - Alternatives are possible but should be considered carefully



Tasks of the Managing Authority / Joint Technical Secretariat

- Ensuring that projects are approved, delivered and monitored in accordance with agreed criteria
- Guiding the Monitoring Committee and providing it with documents (not necessarily chairing)
- Drawing up and submitting reports to European Commission
- Recording and storing MA accounting records.
- Ensuring that project partners are aware of the terms under which grants are awarded and that they have sufficient capacity to fulfil these conditions
- Keeping and publishing a list of partners, operations financed and amount of grant received
- Ensuring evaluation quality
- Ensuring that adequate information is provided to the Certifying Authority



Tasks of the Managing Authority / Joint Technical Secretariat

- In Territorial Cooperation Programmes MA is NOT responsible for ensuring compliance with national and EC rules (FLC task)
- MA has to ensure maintenance of the project audit trail and that payment has been certified correctly (by the Lead Partner FLC)



The MA/JTS checks project activities and finances during monitoring

- Some ‘FLC issues’ can also be included in programme progress report checks:
 - Compliance of activities with the programme decision
 - Financial and technical progress
 - Compliance with publicity rules, public procurement rules
 - Others
- Activities of the MA/JTS can duplicate, supplement or replace FLC controls.
- Vital to ensure that the interface is well defined and no checks are forgotten because it is assumed they will be taken care of at another level



The Managing Authority supervises the work of nationally designated controllers

- Supervisory role of the MA can be expected to be strong because European Court of Auditors criticism of past MA work:
 - Too passive
 - Insufficient management verification in general and insufficient on-the-spot checks
 - Failure to check whether claims for payment were supported by appropriate evidence
 - Failure to identify weaknesses in the tender processes
- MAs cannot afford significant negative findings on first level control in programme systems audits
- MA must identify and manage programme risks - also at the control level
- May be involved in on-the-spot-checks on at least a sample of projects



Tasks of the Certifying Authority

- CA certifies the legality and regularity of expenditure declared to the European Commission
- Draws up payment claims to the European Commission
- Receives funds and makes payments to LP
- Reports on irregularities, recoveries and withdrawals to EU COM
- CA ensures the reliability of the MA's work
- CA is less likely to visit operations but takes a 'system' perspective (based on programme risk)
- CA requests information from MA on the procedures implemented to:
 - Verify the delivery of products and services co-financed and the reality of expenditure claimed
 - Ensure compliance with the applicable rules
 - Maintain the audit trail



The Certifying Authority certifies the legality and regularity of expenditure declared to the EC

Certification role of the CA can be expected to be stronger compared to previous period, because:

Paying Authorities 2000-2006 have also been criticised:

- PAs certified expenditure relaying solely on the checks done by MA
- Failure of PA to identify when MA/FLC had not carried out adequate checks
- PAs had no overview of first level control checks and relied too much on information provided by others
- The coverage of checks by PAs was not specified



Tasks of the Audit Authority

- Ensuring that audits are carried out to verify the effective functioning of the management and control system (system checks)
- Ensuring that audits are carried out on operations (sample checks);
- Development and implementation of the audit strategy
- By 31 December each year submitting to the Commission an annual control report: Issuing an opinion as to whether the management and control system functions effectively
- Submitting to the Commission at the latest by 31 March 2017 a closure declaration
- Ensuring that the audit work takes account of internationally accepted audit standards.



Audit Authority conducts audits of operations (SLC)

- Controllers are now an integrated part of programme systems - and will be included in systems audits
- Control will probably be the most checked part of programme systems
- Weak control may lead to exclusion of controllers and more programme audit
- Project audit sample size increases compared to the past 5%
- Expect Commission auditors likely to be more active!



Designation of controllers by Member States - What does it mean for FLC work?

- **Different systems implemented in the MS:** from the setting up of special control units ('centralised system') to the approval of controllers (de-centralised system')
- All systems represent a Member State **guarantee of the quality** of the controllers in use:
- **Creates a smaller group of named controllers** - which can ensure controllers are aware of requirements and able to implement them
- **Controllers can be trained and monitored**
- **Strengthens controller independence from projects**
- **Also implies that designation can be withdrawn**



Relationships between control bodies

- **ALL:** Should be seen as **one cooperating system** with end goal of below 2% error rate
- **MA/FLC:** Feedback loops are essential - each part of the system needs to learn from the other parts
- **FLC/SLC:** Control audit trail should allow auditors to enter at any point and trace back to the actual control work carried out
- **MA/CA/AA/MS:** Supervisory roles have been toughened in the new regulations to address previous weaknesses



How is the quality of FLC ensured?

Training and information for FL Controllers

- Training, guidelines, manuals and written rules on key issues (e.g., MA, EU COM, INTERACT)
- Provision of checklists

Communication with and control of FL Controllers

- MA/JTS ensures that **expenditures have been certified** by a controller and complements control work (monitoring)
- MA/JTS communicates with FLC; can **collect control reports and checklists**; can **review audit findings on FLC work**; can performing **quality checks on control work** (including review of original control documents)
- AA: Audit of project sample and feedback of results to other programme authorities
- European Commission, EU Court of Auditors, others



Additional slides



Certifying Authority

1. Core function: certifying expenditure declared to the EC
2. Ensuring the reliability of the MA's work
3. Sending claims to the EC
4. Accounting records on programme level

Managing Authority (or JTS)

5. Approves individual project claims
6. Main contact to project LPs
7. Verifies that products and services are delivered
8. On-the-spot verifications of operations
9. Ensures there is system for recording and storing project accounting records
10. Ensures that project documents and procedures meet requirements for adequate audit trail

- Clear separation of functions and independence essential
- There should be no duplication of control – satisfactory results of e.g. systems controls of the MA can lead to limiting of CA's actual control work



How does MA/JTS ensure project quality? (1)

- Evaluate formal eligibility of a project application and conformity with the content of the OP
- Issue the Subsidy Contract, which outlines the legal frame
- Monitor project financial and technical progress
- Publish information covering relevant Community, national rules and programme (e.g. publicity and information)
- Provide training and guidance to Lead Beneficiaries



How does MA/JTS ensure project quality? (2)

MA/JTS need to **inform partners** about:

- **Specific conditions** concerning the products or services to be delivered under the operation (e.g. programme eligibility rules, audit trail requirements)
- The **financing plan**
- The **time-limit** for execution
- The financial and other **information to be kept** and communicated
- The MA must satisfy itself that the partner has the **capacity** to fulfill these conditions **before the approval decision is taken.**

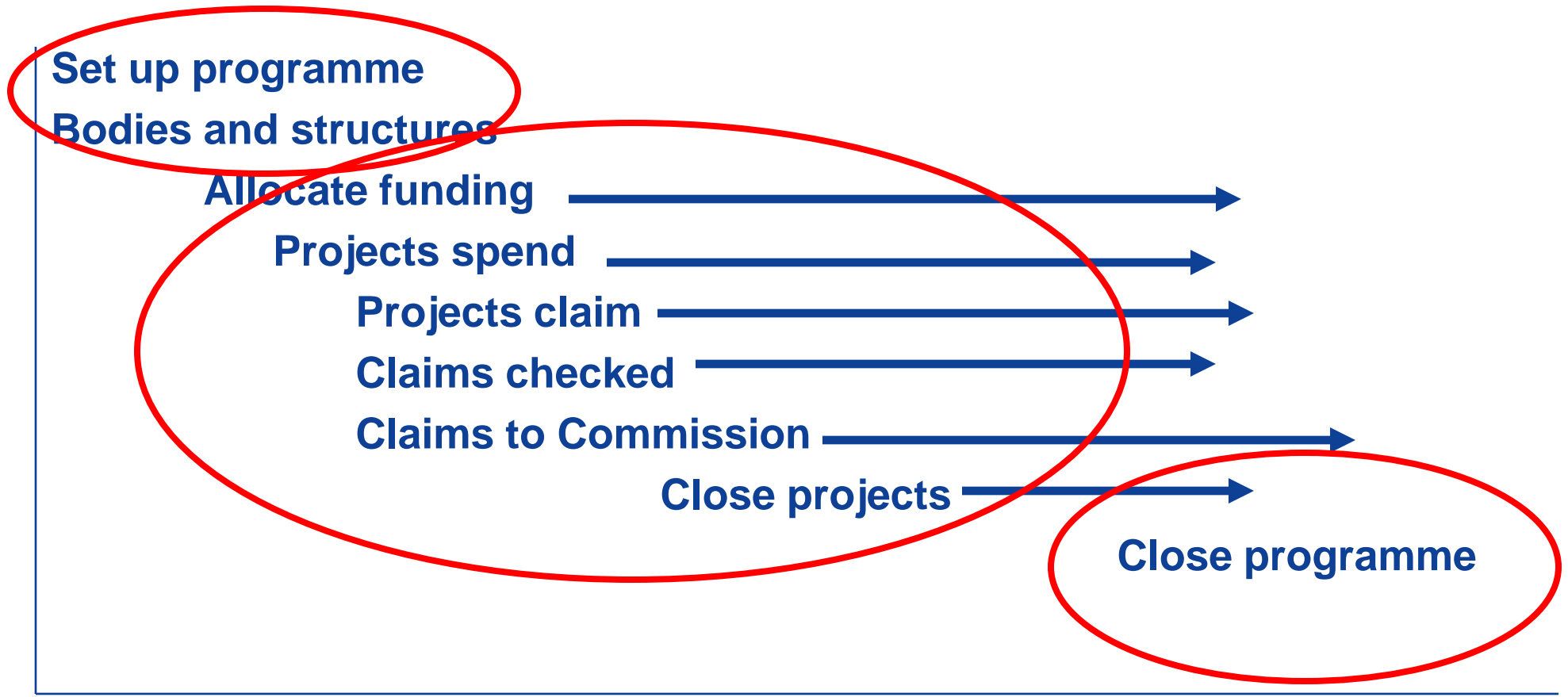


How does MA/JTS ensure project quality? (3)

Partner **capacity checks** can include:

- Assessment of the financial standing of the partner
- Qualifications and experience of staff
- Administrative and operational structure

- Some programmes impose **restrictions on who can be Lead Partner**
- Some programmes use declarations (e.g. existence of adequate book-keeping system, separation of project transactions, filing system, document retention, etc.)



2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017

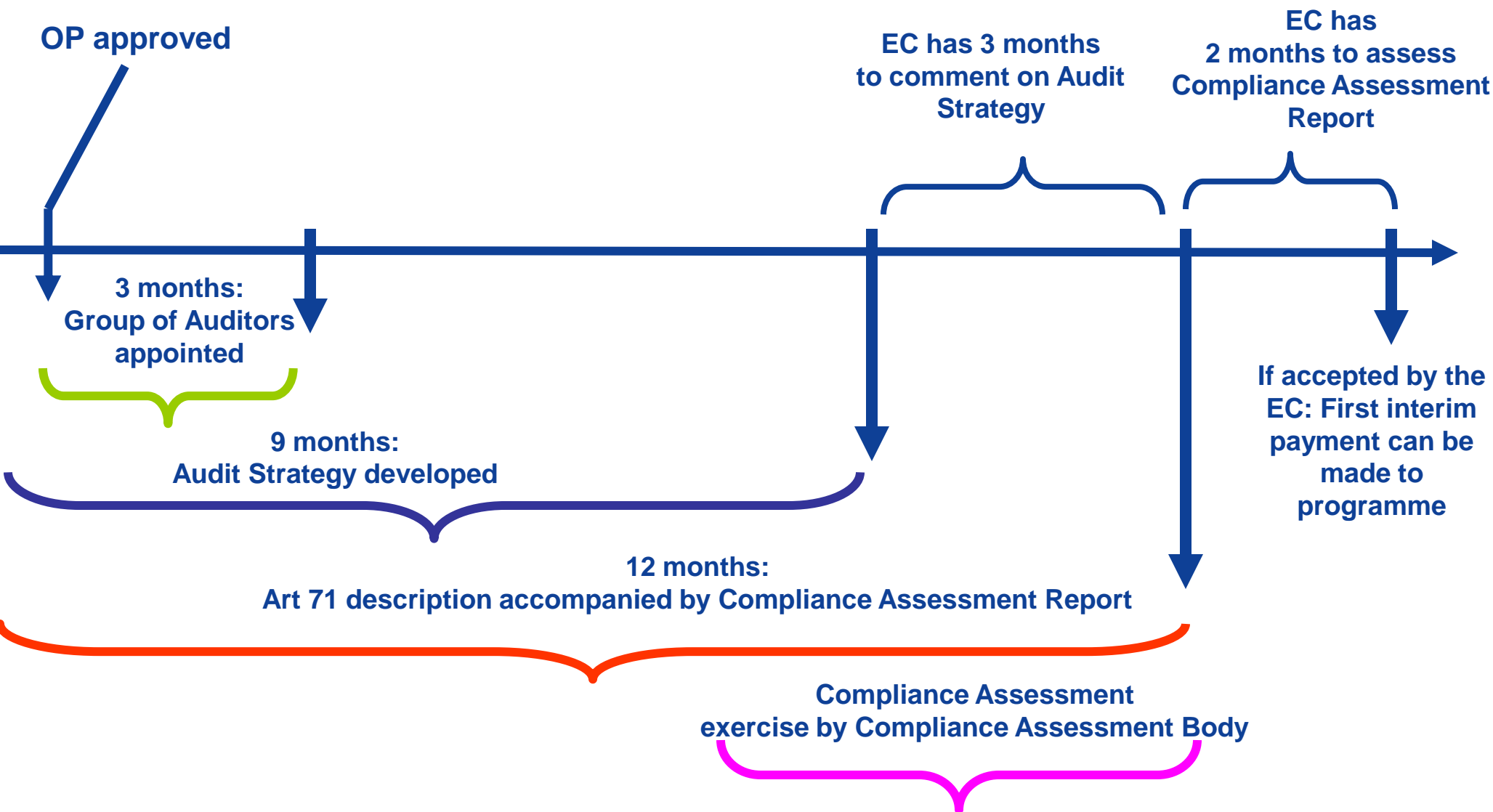


Description of management and control systems - conclusions:

- MCS best done in dialogue with Audit Authority /CAB
- In case of reservations on any part of the MCS, CAB should point out what needs to be corrected
- CAB should provide a positive opinion before first interim payment can be made by EC
- CAB may have many reservations and resolving them may delay the process of getting first payment
- A few approved MCS available on the INTERACT Website:



Annex XII items from EU regulation 1828/2006	Answers to column 1 queries (in principle, only greyed areas should be filled in)	CICC observations, after discussions if need be	Answer of the Managing Authority
2.3. In cases where the managing authority and the certifying authority are both designated in the same body, describe how separation of functions is ensured			
	The managing authority and the certifying authority are two different bodies.		
2.4. Public Procurement, State Aid, Equal Opportunities and Environment rules			
2.4.1. Instructions and guidance issued on the applicable rules (date and reference)	<p>As the programme covers several Member States, references are made to EU legislation and it is specified that partners should refer to their national legislation as well.</p> <p>The programme also provides all partners with Guidance notes .</p>	What about the public procurement requirement. How this requirement will be respected ?	<p>Projects: it is up to the designated first level controllers to check the compliance with national requirements.</p> <p>The first level controllers have to confirm with each report that the Partners complied with Community rules and policies including publicity, information, equal opportunities, protection of environment, state aid, competition and public procurement.</p> <p>In a first step, the MS through their approval decision agree on the compliance of a project with community policies.</p> <p>During project implementation, it is the task of the first level controller to check and confirm the compliance with Community policies (especially the compliance with public procurement rules).</p>





4 possibles sources of co-financing:

- Automatic co-financing
- Competition based co-financing
- Private co-financing
- Own contribution

PROS AND CONS...



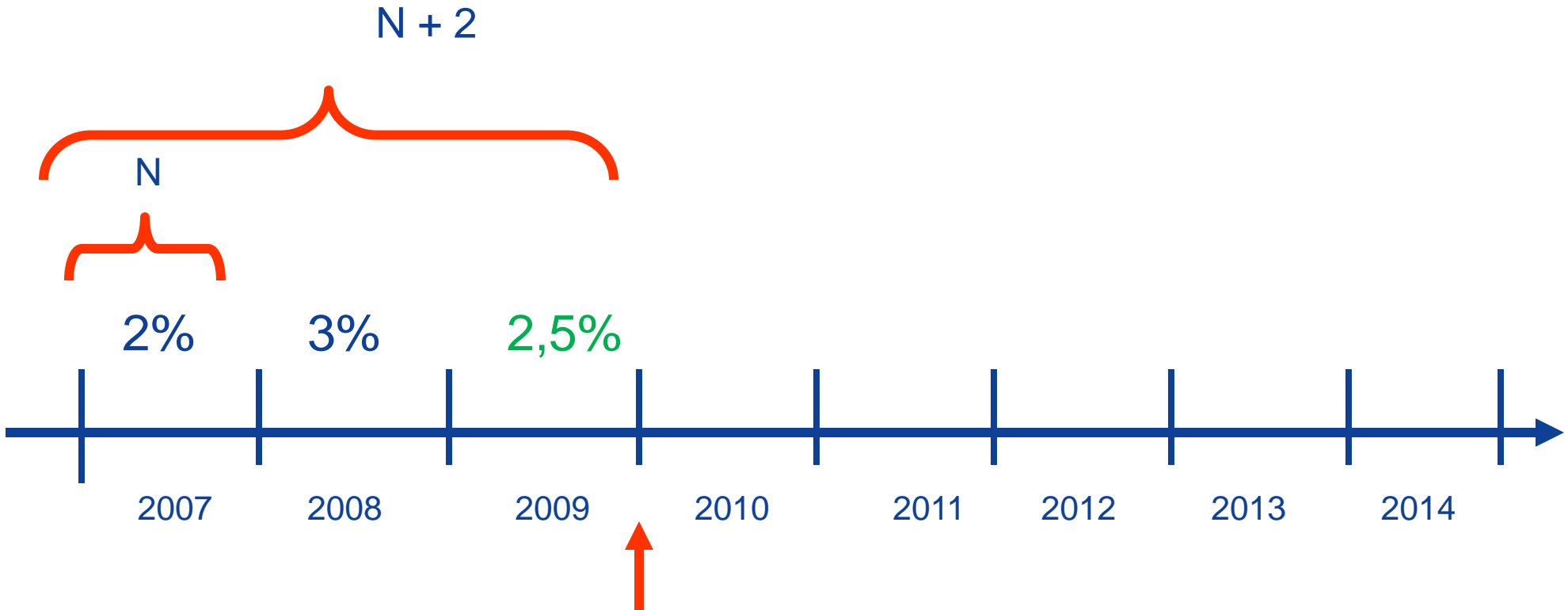
- Maximums: 75%-25% or 85%-15% (programmes with at least one EU-14)
- Some programmes use lower ERDF rates e.g. 50% ERDF (programme decision)
- Minimum rate per priority: 20%
- Maximum rate per priority: 100%



***Use of different rates for different priorities?
Expected impacts of use of lower/higher rates?***



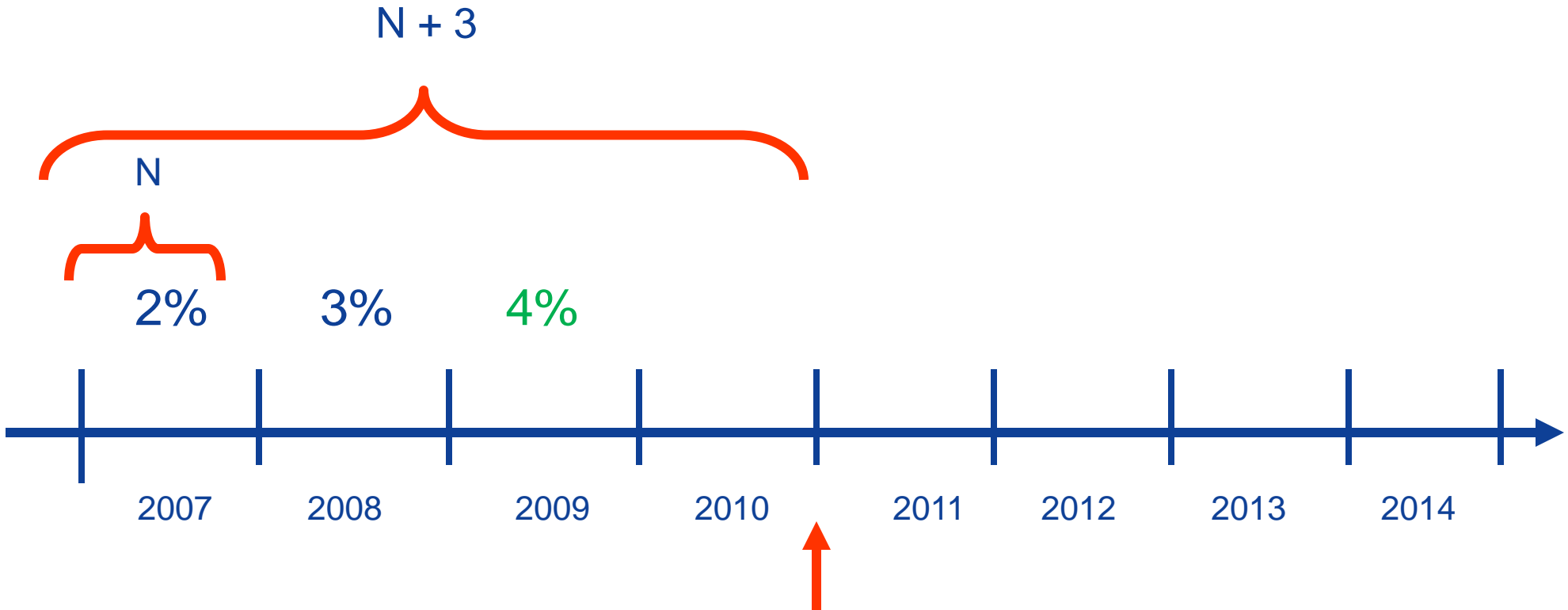
Programmes with EU-15 MS:



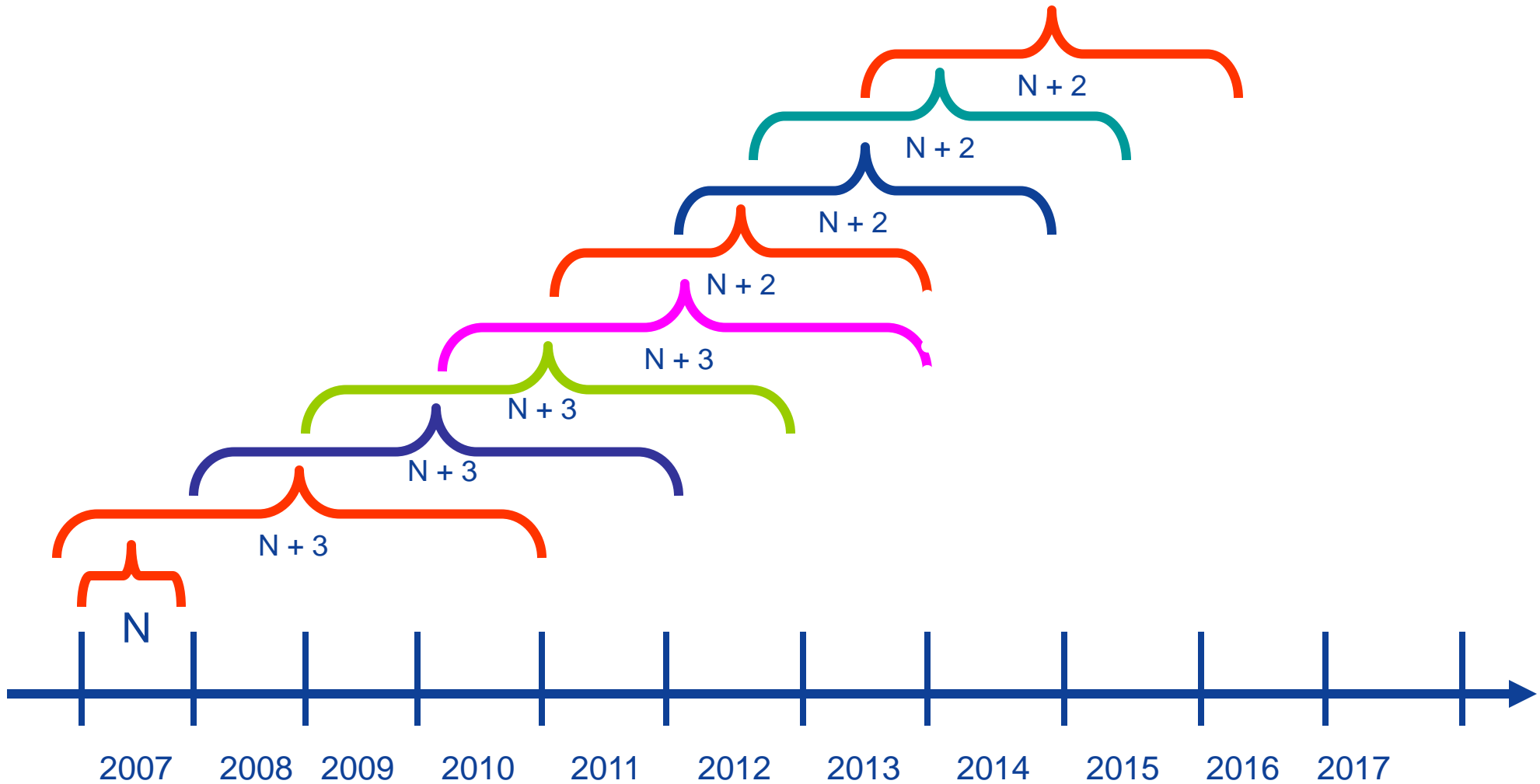
You can deduct 7,5% Advance Payment (ERDF) from the decommitment target amount



Programmes with EU-12 MS:



You can deduct 9% Advance Payment (ERDF) from the first decommitment target amount





There are 3 main causes of decommitment:

- Slow allocation of programme funds
- Slow project spending
- Slow certification and processing of project claims



AA (= Audit Authority)

- Systems check

- Integrated reports

- Reports to EC

AA + GoA (=Group of Auditors)

- Audit strategy

- Selection of sample of operations

- Carrying out checks

- Partial (national) reports

AA is a coordinating body for the MSs, contact point with the EC and usually SLC body in the MA Member State